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*Attorneys for Prioritized Defendant
Facebook, Inc., and Non-Prioritized
Defendants Mark Zuckerberg, and Sheryl
Sandberg*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**DEFENDANT FACEBOOK, INC.'S
RESPONSE TO PLAINTIFFS' MOTION
FOR ENTRY OF PRETRIAL ORDER
ADDRESSING CLAIM PRIORITIZATION**

Judge: Hon. Vince Chhabria
Courtroom: 4, 17th Floor
Hearing Date: November 15, 2018
Hearing Time: 10:00 a.m.

Defendant Facebook, Inc. (“Facebook”) respectfully submits this Response to Plaintiffs’ Motion for Entry of Pretrial Order Addressing Claim Prioritization, filed on October 3, 2018, Dkt. 156 (“Mot.”).

Plaintiffs are correct that “Facebook does [not] object ... as a general matter” to the proposal reflected in Plaintiffs’ Prioritization Motion. Mot. at 1. Facebook agrees that prioritizing certain claims and/or defendants within the operative complaint would promote the efficiency goals of the MDL structure. Plaintiffs’ proposal is also consistent with Pretrial Order No. 1, which automatically consolidated into the MDL all new tag-along actions transferred by the JPML or related into the MDL via Local Rule 3-12. *See* Dkt. No. 2 ¶¶ 1-2 (“Any tag-along action ... filed in this District will be automatically consolidated with this action without the need for future motions or orders.”); *see also* Dkt. 160 (JPML Order transferring *People of the State of Illinois ex rel. Kimberly M. Fox v. Facebook, Inc.*); Dkt. 161 (Order relating *Rankins v. Facebook, Inc.* and *Hwang v. Facebook, Inc.* into the MDL). As the Court confirmed by email on October 17, 2018, under Pretrial Order No. 1 and Pretrial Order No. 8, Dkt. 120, ¶ 11, the Consolidated Amended Complaint filed on September 21, 2018, is the sole operative complaint in this MDL, and the only complaint to which Facebook intends to respond on November 2, 2018.

In light of Plaintiffs’ proposal, Facebook intends to move to dismiss only the 12 so-called “priority claims” that Co-Lead Counsel identified in the Consolidated Amended Complaint, reserving its rights with respect to any other claims alleged in the Consolidated Amended Complaint. Of course, rulings on Facebook’s forthcoming motion to dismiss may inform the viability of Plaintiffs’ non-priority claims. Thus, it is Facebook’s view that the parties should meet and confer regarding the status of the non-priority claims after the Court rules on the motion to dismiss.

DATE: October 17, 2018

Respectfully submitted,

GIBSON, DUNN & CRUTCHER, LLP

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